

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

DAVID FRANKLIN BECK JR.

Movant

v.

UNITED STATES OF AMERICA

Respondent

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Case No. 6:20cv374-JDK-KNM

(Crim. No. 6:15cr4(2))

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Movant David Franklin Beck Jr., proceeding *pro se*, filed the above-styled and numbered motion to vacate or correct sentence under 28 U.S.C. § 2255 complaining of his conviction for possession with intent to distribute 50 grams or more of actual methamphetamine, for which he received a sentence of 216 months in prison, followed by a five-year term of supervised release. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636.

After review of the petition, the Magistrate Judge issued a Report recommending that the motion to vacate or correct sentence be dismissed. A copy of this Report was sent to Movant, and on October 18, 2021, Movant filed a motion for extension of time in which to file objections. This motion was granted to February 4, 2022; to date, however, no objections have been received.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 5th Cir. 1996) (en banc), superseded on other grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Movant did not file objections in the prescribed period. The Court therefore reviews the Magistrate Judge's findings or clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. See *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), cert. denied, 492 U.S. 918 (1989)

(holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and Recommendation, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. The Court therefore adopts the Report and Recommendation of the United States Magistrate Judge as the findings of this Court.

Accordingly, it is hereby **ORDERED** that the Magistrate Judge's Report (Docket No. 4) be **ADOPTED**. The above-styled motion to vacate or correct sentence is **DISMISSED WITH PREJUDICE**. A certificate of appealability is **DENIED *sua sponte***. All pending motions are **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this **28th** day of **March, 2022**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE